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INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

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AGREEMENT AND ASSIGNMENT dated as of June 25, 1971, between SOUTHERN IRON & EQUIPMENT COMPANY (hereinafter called the Manufacturer), and THE WESTERN SAVING FUND SOCIETY OF PHILADELPHIA (hereinafter called the Assignee).

WHEREAS, the Manufacturer and WAVERLY LEASING CORPORATION (hereinafter called the Company) have entered into a Conditional Sale Agreement dated as of June 25, 1971 (hereinafter called the Conditional Sale Agreement), covering the reconstruction, sale and delivery, on the conditions therein set forth, by the manufacturer and the purchase by the Company of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Manufacturer hereby assigns, transfers, and sets over unto the Assignee, its successors and assigns:

(a) All the right, title and interest of the Manufacturer in and to each unit of the Equipment;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement (except the right to reconstruct and deliver the Equipment and the right to receive the payment specified in subparagraph (a) of the third paragraph of Article 3 thereof), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all the Manufacturer's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement: provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained or referred to in Article 13 of the Conditional Sale Agreement or Annex A thereof or relieve the Company from its obligations to the Manufacturer contained or referred to in the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment or any subsequent assignment pursuant to the provisions of Article 14 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company with respect to the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Company with the terms and agreements on their parts to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Manufacturer covenants and agrees that it will construct and deliver the Equipment to the Company in accordance with the provisions of the Conditional Sale Agreement and Annex A thereto; and that, notwithstanding this Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery of each unit of the Equipment to the Company under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and the title to such

unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease (as defined in the Conditional Sale Agreement); and the Manufacturer further covenants and agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to said delivery of such unit by the Manufacturer to the Company; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Company thereunder. The Manufacturer will not deliver any of the Equipment to the Company under the Conditional Sale Agreement until the Conditional Sale Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act.

The Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price (as that term is defined in the Conditional Sale Agreement) of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will indemnify, protect and hold harmless the Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Company arising out of a breach by the Manufacturer of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Company by the Manufacturer. The foregoing indemnification provision is conditioned upon the Assignee promptly notifying the Manufacturer of the asserted defense, setoff, counterclaim or recoupment and giving the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment in Assignee's name and upon Assignee's reasonable cooperation in connection therewith.

Except in cases of designs specified by Lessee and not developed by Manufacturer, and articles and materials specified by Lessee and not manufactured by Manufacturer, Manufacturer agrees to indemnify, protect and hold harmless Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Assignee because

Manufacturer's reconstruction of the Equipment, or any units thereof, under Annex A of the Conditional Sale Agreement infringes or is claimed to infringe any patent or similar right.

The Manufacturer agrees that any amount payable to it by the Company, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest on any units of the Equipment in respect of which the Assignee pays to the Manufacturer the amount to be paid under Section 5 hereof.

SECTION 3. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, at the time of delivery thereof to the Company, in letters not less than one inch in height, the following legend:

"The Western Saving Fund Society of Philadelphia, Secured Party
Waverly Leasing Corporation, Owner-Lessor"

SECTION 4. Upon request of the Assignee, its successors and assigns, the Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

SECTION 5. The Assignee, on the Closing Date fixed as provided in Article 3 of the Conditional Sale Agreement with respect to the Equipment (as defined in said Article 3) shall pay to the Manufacturer an amount equal to that portion of the Purchase Price (as defined in said Article 3) not required to be paid pursuant to subparagraph (a) of the third paragraph of said Article 3, provided that there have been delivered to the Assignee and its counsel (with a signed counterpart to the Company) the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to its special counsel hereinafter mentioned:

(a) Bill of Sale from the Manufacturer to the Assignee, confirming the transfer hereunder to the Assignee of title to the units of Equipment and warranting to the Assignee and to the Company that at the time of delivery to the Company under

the Conditional Sale Agreement the Manufacturer had legal title to the Equipment and good and lawful right to sell the Equipment and title to the Equipment was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease;

(b) Certificate or Certificates of Acceptance with respect to the Equipment as contemplated by Article 2 of the Conditional Sale Agreement.

(c) Invoices for the Equipment accompanied by or having endorsed thereon a certification by the Company as to the correctness of the prices of such units as set forth in said invoices;

(d) Opinion, dated as of such Closing Date, of Messrs. Morgan, Lewis & Bockius, who are acting as special counsel for the Assignee, addressed to the Assignee, stating that (i) the Conditional Sale Agreement has been duly authorized, executed and delivered by the respective parties thereto and is a legal and valid instrument binding upon the parties thereto and enforceable in accordance with its terms, (ii) this Assignment has been duly authorized, executed and delivered by the respective parties hereto and is a legal and valid instrument binding upon the parties hereto, (iii) the Assignee is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Assignment, (iv) title to the units of the Equipment is validly vested in the Assignee and the Equipment, at the time of delivery thereof to the Company under the Conditional Sale Agreement, was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease, (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement or this Assignment, or, if any approval is necessary, it has been obtained, (vi) the Conditional Sale Agreement, this Assignment and the Lease have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing, recording or deposit (or giving of notice) is necessary for the protection of the rights hereunder of the Assignee in any State of the United States of

America or the District of Columbia and (vii) registration of the Conditional Sale Agreement, this Assignment is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended, and such opinion shall cover such other matters as the Assignee or any Investor may reasonably request;

(e) Opinion, dated as of such Closing Date, of counsel for the Company addressed to the Assignee to the effect that (i) the Company is a duly organized and existing corporation in good standing under the laws of Pennsylvania and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered on behalf of the Company and is a valid and binding instrument enforceable against the Company in accordance with its terms;

(f) Opinion, dated as of such Closing Date, of counsel for the Lessee addressed to the Assignee to the effect set forth in Section 26 of the Lease.

(g) Opinion, dated as of such Closing Date, of counsel for the Manufacturer addressed to the Assignee stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the State of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement and this Assignment have been duly authorized, executed and delivered by the Manufacturer and are, with reference to Georgia law, valid instruments binding upon the Manufacturer and enforceable against the Manufacturer in accordance with their terms; provided the doctrine of mutuality or a failure of consideration does not render any such assignment unenforceable, in which event no opinion is expressed, (iii) the Manufacturer has taken all action necessary by it to transfer all its rights, titles, interests, powers, privileges and remedies purported to be assigned by this Assignment, and (iv) the Manufacturer has taken all action necessary by it to transfer its title to the Equipment, which at the time of delivery thereof was validly vested in the Manufacturer, and the Equipment, at the time of delivery thereof to the Company under the Conditional Sale Agreement, was free of all claims, liens, encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease.

(h) Unless payment of the amount, if any, payable pursuant to subparagraph (a) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in this Section 5, counsel may qualify any opinion to the effect that (i) any agreement is a legal and valid instrument binding upon the parties thereto and enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and (ii) such opinion does not pass upon questions involving interest on interest. In giving the opinions specified in subparagraphs (e), (f) and (g) of the first paragraph of this Section 5, counsel may in fact rely as to the title to the units of the Equipment at the time of delivery to the Company upon the opinion of counsel for the Manufacturer, which in turn, may rely upon the opinion of counsel for the Lessee as to quality of title received by the Manufacturer and may also rely upon affidavits of duly authorized officers of the Manufacturer as to quality of title conveyed by the Manufacturer. In giving the opinions specified in subparagraphs (e) and (f) of the first paragraph of this Section 5, Messrs. Morgan, Lewis & Bockius may in fact rely, as to any matters governed by the law of any jurisdiction, other than Pennsylvania or the United States, or in the opinions of counsel for the Manufacturer or the Lessee as to such matters.

The obligation of the Assignee hereunder to make payment for the Equipment is hereby expressly conditioned upon payment by the Company of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 3 of the Conditional Sale Agreement.

The Assignee shall not be obligated to make the above-mentioned payment at any time while an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement will constitute an event of default, shall be subsisting under the Conditional Sale Agreement.

In the event that the payment required to be made by the Assignee herein shall not be paid, the Assignee shall reassign to the Manufacturer, without recourse to the Assignee, all right, title and interest of the Assignee in and to the Units of Equipment with respect to which such payment has not been made by the Assignee.

SECTION 6. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Company thereunder. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 7. The Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming due authorization, execution and delivery by the Company) it is a valid and existing agreement binding upon the Manufacturer, and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, title and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 8. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania.

SECTION 9. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of June 25, 1971, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers or officials duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

SEAL

Attest:

Secretary

SOUTHERN IRON & EQUIPMENT COMPANY

By

Title

SEAL

Attest:

Secretary

THE WESTERN SAVING FUND SOCIETY
OF PHILADELPHIA

By

Title

STATE OF GEORGIA:

COUNTY OF DeKalb SS.

On this 8 day of July, 1971, before me personally appeared Tom C. Campbell, to me personally known, who, being by me duly sworn, says that he is the President of Southern Iron & Equipment Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Grace C. McNeese
Notary Public

SEAL

My commission expires:
Notary Public, Georgia, State at Large
My Commission Expires Dec. 2, 1972

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF PHILADELPHIA :

SS.

On this 12th day of July, 1971, before me personally appeared Hugh W. B. Johnston III, to me personally known, who, being by me duly sworn, says that he is Asst. Vice Pres of The Western Saving Fund Society, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Dante M. Grelli
Notary Public

SEAL

My commission expires:

Notary Public, State of Pennsylvania
My Commission Expires April 1, 1972

Acknowledgment of Notice of Assignment

Receipt of a copy of, and due notice of, the assignment made by the foregoing Agreement and Assignment is hereby acknowledged as of

WAVERLY LEASING CORPORATION

By D. Charles Mcminette

Title President